IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

Crl.MC.No. 592 of 2007()

CC.296/1999 of CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM

.....

PETITIONER: COMPLAINANT

KADAVOOR C.N.CHANDRAN, SON OF NANU,
CHAMAVILA VEEDU, KOTTACKAKATHUCHERI,
THRIKKADAVUR VILLAGE, KOLLAM.

BY ADV. SRI.K.RAJAN
SMT.K.SUNITHA VINOD
SRI.P.GOPALAKRISHNAN (MVA)

RESPONDENTS: STATE OF KERALA AND ACCUSED

---

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KEERALA, ERNAKULAM.

2. T.P.DILIP , SUB INSPECTOR,
FORMERLY KOLLAM WEST POLICE STATION,
NOW CIRCLE INSPECTOR OF POLICE,
KADAKKAL, KOLLAM DISTRICT.

BY PUBLIC PROSECUTOR SRI.PREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.592 of 2007

Dated this the 5th day of March, 2007

ORDER

The prayer in this petition is strange. The learned counsel for the petitioner wants this Court to issue directions to help the learned Magistrate to understand the scope of the following observations in paragraph 3 of the order dated 27.09.2006 in Crl.R.P.No.3313 of 2006. I extract para.3 below:

> "This revision petition is, in these circumstances, dismissed, but with the observation that the learned Magistrate must consider the contention that sanction is necessary and no sanction is obtained, afresh untrammeled by any observation made in the impugned order."

The said paragraph plainly means what it says. After the entire evidence is adduced under Section 244 Cr.P.C, the learned Magistrate must consider the question of framing charge/discharge under Section 245(1)/246 Cr.P.C. While considering such question, the question of sanction under Section 197 Cr.P.C can also be raised by the accused. When such question is raised, the learned Magistrate must consider the question afresh. No observation in the previous order can be held to fetter his discretion to come to appropriate conclusions. All the questions must be considered afresh ignoring all the findings recorded in the order which was impugned in the Crl.R.P.

2. I do not think it necessary to issue any specific directions to enable the learned Magistrate to understand the above directions in the proper perspective. I have no reason to assume that the learned Magistrate is unable to understand the said directions and come to proper conclusions on the basis of the directions issued.

3. The learned counsel for the petitioner submits that the proceedings were initiated as early as in 1998. The alleged incident had happened in 1998. Needless to say, the learned Magistrate must, in these circumstances, show a sense of expedition and ensure early disposal of the case.

4. With the above observations, this Crl.M.C is, dismissed.

(R.BASANT, JUDGE)

rtr/-